

**COURT OF APPEALS  
DECISION  
DATED AND RELEASED**

March 28, 1996

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

**No. 96-0343-CR-NM**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT IV**

**STATE OF WISCONSIN,**

**Plaintiff-Respondent,**

**v.**

**JEFFREY A. ROGERS,**

**Defendant-Appellant**

APPEAL from a judgment of the circuit court for Clark County:  
MICHAEL W. BRENNAN, Judge. *Affirmed.*

DYKMAN, J. Appellate counsel for Jeffrey A. Rogers has filed a no merit report pursuant to RULE 809.32, STATS. Rogers did not respond to the report. Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738, 744 (1967), we conclude that there is no arguable merit to any issue that could be raised on appeal. We therefore affirm the trial court's judgment.

A police officer observed Rogers driving a tractor without a proper taillight. Upon following the vehicle, he observed Rogers run over a road sign and continue down the highway without stopping. The officer stopped Rogers, who then got out of the tractor. The officer observed him swaying and smelled a strong odor of alcohol on Rogers's breath. After Rogers failed several field sobriety tests and registered a .19 reading on a breathalyzer, the officer arrested him.

The State charged Rogers with operating a motor vehicle while under the influence of an intoxicant, second offense, and operating after revocation. Pursuant to a plea bargain, Rogers agreed to plead no contest to the first charge. In exchange, the State agreed to drop the operating after revocation charge and to recommend ninety days in jail and a \$790 fine. Upon receiving the plea, the trial court sentenced Rogers to a thirty-day jail term and a \$790 fine, and extended his license revocation sixteen months.

Counsel reasonably chose not to challenge the stop. A person may be arrested without a warrant for violating a traffic regulation if the traffic officer has reasonable grounds to believe that the person is violating or has violated a traffic regulation. Section 345.22, STATS. Here, the officer observed a defective light and erratic driving. After the stop, Rogers appeared obviously inebriated. There were no reasonable grounds to challenge the officer's action.

Rogers cannot succeed on a motion to withdraw his plea because he knowingly and voluntarily pleaded no contest. Before accepting the plea, the trial court established that Rogers understood and waived his rights to a jury trial, confrontation and protection against self-incrimination. The court ensured that Rogers understood the elements of the charged crime and the potential punishment. The court also properly inquired as to Rogers's ability to understand the proceedings, and the record independently establishes that he understood the proceedings. The State did not improperly induce him to plead no contest and he exercised his free will in accepting the plea bargain. Although the court did not determine on the record that an adequate factual basis existed for the charge, the record independently establishes that basis. More specifically, the complaint sets forth a detailed description of the stop, arrest and subsequent testing. The proceeding therefore satisfied the requirements set forth in *State v. Bangert*, 131 Wis.2d 246, 261-62, 389 N.W.2d 12, 21 (1986), to ensure a knowing and voluntary plea.

The trial court properly sentenced Rogers. He could have received a \$1,000 fine and ninety days in jail. In addition to the present offense, the court was advised that Rogers had a very extensive record of other traffic violations. Rogers nonetheless received a sentence substantially less than the maximum, and less than what the State recommended. He cannot reasonably argue that the sentence was an unreasonable exercise of discretion.

Appellate counsel has identified no other potentially meritorious issues. Upon our independent review of the record as mandated by *Anders*, we also conclude that there are no other meritorious issues and that any further proceedings would be frivolous and without arguable merit. Accordingly, we affirm the judgment and relieve Rogers's counsel of any further representation of him in this appeal. Because that ends the matter, we deny counsel's pending motion to withdraw because Rogers has allegedly threatened her.

*By the Court.*—Judgment affirmed.